

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14 CV 8252

SUSAN GIORDANO,

Plaintiff,

COMPLAINT

Index No.

as Executrix of the ESTATE OF IDA GIORDANO,

Deceased,

JUDGE SWEET

-against-

UBS AG,

Defendant.

SUSAN GIORDANO (hereinafter referred to as "Plaintiff"), as Executrix of the ESTATE OF IDA GIORDANO (hereinafter referred to as "Ida"), Deceased, by and through her attorneys, ANCONA ASSOCIATES, complaining of UBS AG (hereinafter referred to as "Defendant") respectfully alleges upon information and belief:

JURISDICTION AND VENUE

1. Plaintiff maintains this action for breach of fiduciary duty, malpractice, negligence, disgorgement, breach of contract, and fraud. This Court has jurisdiction of this action under 28 U.S.C. §§ 1332(a).
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this District.
3. This Court has personal jurisdiction over Defendant. Defendant has committed a tort in whole or in part in New York and/or has otherwise done business in New York.

PARTIES

4. That at all times herein mentioned and at all times relevant to this action, Plaintiff is an individual and a citizen of State of New York.

5. That at all times herein mentioned and at all times relevant to this action, Plaintiff was and continues to be a resident of County of Queens, State of New York.
6. That at all times herein mentioned and at all times relevant to this action, Plaintiff resides at 162-03 91st Street, Howard Beach, County of Queens, State of New York, 11414.
7. Upon information and belief that at all times herein mentioned, Defendant was and continues to be a foreign Swiss corporation doing business in the State of New York and throughout the United States.
8. Upon information and belief that at all times herein mentioned, Defendant maintains a branch in the County of New York, State of New York located at 1285 Avenue of the Americas, New York, New York 10019.
9. Upon information and belief that at all times herein mentioned, the Board of Governors of the Federal Reserve System exercises examination and regulatory authority over Defendant's state-licensed United States branches.
10. Upon information and belief that at all times herein mentioned, On April 10, 2000, Defendant was designated a "financial holding company" under the Bank Holding Company Act of 1956.
11. Upon information and belief that at all times herein mentioned, Defendant is subject to regulation by the United States Department of Treasury and entered into a QI Agreement pursuant to 1.1441-1(e)(5) of the income tax regulations.

GENERAL ALLEGATIONS

12. Upon information and belief and at all times relevant to this action, the funds have been generated from owners of real property with both short and long term rental income.

13. Upon information and belief and at all times relevant to this action, on or about 1980's, Ida Giordano opened a UBS Account, which is located in Zurich, Switzerland.
14. Upon information and belief and at all times relevant to this action, Ida Giordano opened a Bank Frey & Co. Account, which is located in Zurich, Switzerland.
15. Upon information and belief and at all times relevant to this action, on or about October 15, 2009, Plaintiff, as a voluntary participant of the Voluntary Disclosure Program, sent to the IRS a Voluntary Disclosure.
16. As a result of Defendant's conduct, Plaintiff has suffered injury, *inter alia*, she has been assessed and has paid back taxes, penalties, and interest to the IRS as a result of her ownership of the UBS Swiss Accounts; paid excessive fees, commissions, and premiums to UBS for sham services and transactions that brought no value or benefit to Plaintiff; and has incurred and continues to incur additional legal and accounting fees to remedy the IRS situation that has arisen as a result of her ownership of the UBS Swiss Accounts.
17. Plaintiff, acting as Executrix of the Estate of Ida Giordano, elected to participate in the Offshore Voluntary Disclosure Program, and as a result, had to pay a penalty equal to twenty (20) percent of the highest aggregate account balance during the period of 2003 to 2008, which was Two Million Eight Hundred Twenty and Two Hundred Thousand Dollars (\$2,820,200.00), which equaled Five Hundred Sixty Four and Forty Thousand Dollars (\$564,040.00).
18. Plaintiff, acting as Executrix of the Estate of Ida Giordano, elected to participate in the Offshore Voluntary Disclosure Program, and as a result, had to pay a penalty equal to twenty (20) percent of the resulting tax on the unreported income during the period of